

McCARTER & ENGLISH, LLP
245 Park Avenue
27th Floor
New York, New York 10167
(212) 609-6800 - Telephone
(212) 609-6921 - Facsimile
Michael J. Reynolds, Esquire
mreynolds@mccarter.com

Attorneys for Southwestern Ohio Seniors' Services, Inc. n/k/a Maple Knoll Communities, Inc., an Ohio non-profit corporation

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

	:	Chapter 11
In re:	:	
	:	Case No. 08-13555 (JMP)
LEHMAN BROTHERS HOLDINGS	:	
INC., et. al.,	:	(Jointly Administered)
Debtor.	:	
	:	

**OBJECTION OF SOUTHWESTERN OHIO SENIORS' SERVICES, INC.
TO ASSUMPTION OF EXECUTORY CONTRACT**

Southwestern Ohio Seniors' Services, Inc. n/k/a Maple Knoll Communities, Inc., an Ohio non-profit corporation ("Maple Knoll"), by and through its undersigned counsel, hereby objects to the proposed assumption by the Debtor, Lehman Brothers Special Financing Inc. ("LBSF"), of the Debt Service Deposit Agreement between LBSF and Maple Knoll dated as of April 28, 1997 and amended in 2002 and 2007 (the "DSD Agreement"). In support of its objection, Maple Knoll states as follows:

1. On or about April 28, 1997, Maple Knoll and LBSF entered into the DSD Agreement, which provides for the direction of certain investments by LBSF of Maple Knoll funds on deposit with the Trustee of a 1993 Indenture of Trust relating to a certain 1993 Bond issue.

2. On or about May 21, 2002, Maple Knoll and LBSF entered into a First Amendment to the DSD Agreement.

3. On or about October 19, 2007, Maple Knoll and LBSF entered into another "Amendment Agreement" to the DSD Agreement.

4. On or about September 15, 2008, the Debtors filed a petition for relief under the Bankruptcy Code.

5. From the period beginning with the execution of the DSD Agreement up to the filing of the Bankruptcy Petition, LBSF directed the investment of Maple Knoll funds on deposit with the Trustee as set forth in the DSD Agreement.

6. Following the bankruptcy filing, and for the last three years, LBSF has not directed the investment of any Maple Knoll funds on deposit with the Trustee as set forth in the DSD Agreement.

7. On or about October 27, 2011, Debtors filed a Notice of Proposed Assumption of Executory Contracts and Unexpired Leases identifying Maple Knoll as a Counterparty to an unidentified agreement and listing the cure amount as \$0.

8. Maple Knoll objects to an assumption of the DSD Agreement and asserts (a) that the Debtors have not demonstrated that the DSD Agreement is an executory contract within the meaning of Bankruptcy Code Section 365, (b) that the DSD Agreement is not in fact an executory contract capable of assumption by the Debtors, and (c) Debtors have long since abandoned the DSD Agreement.

9. To the extent that the DSD Agreement is deemed to be an executory contract, Maple Knoll objects to the Debtors' assertion that there is no cure amount, and objects to its assumption because the Debtors have failed to demonstrate that they can or will cure

any defaults, compensate Maple Knoll for any loss, and/or provide adequate assurance of performance pursuant to Bankruptcy Code Section 365(b)(1).

10. Maple Knoll hereby further reserves its rights to assert such other and further objections as may be warranted. Moreover, in the event that the Court were to determine that the DSD Agreement is subject to assumption by the Debtors, Maple Knoll expressly reserves the right to further dispute the calculation of the cure amount due.

WHEREFORE, Maple Knoll respectfully requests that the Court deny the Debtors' request to assume the alleged executory contract between Maple Knoll and LBSF and grant such other and further relief as may be warranted.

Respectfully submitted,

Dated: November 9, 2011
New York, NY

/s/ Michael J. Reynolds

Michael J. Reynolds, Esquire
McCARTER & ENGLISH, LLP
245 Park Avenue, 27th Floor
New York, New York 10167
(212) 609-6800 - Telephone
(212) 609-6921 - Facsimile
mreynolds@mccarter.com

-and-

Katharine L. Mayer, Esquire
McCARTER & ENGLISH, LLP
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19899
(302) 984-6300 - Telephone
(302) 984-6399 - Facsimile
kmayer@mccarter.com

*Attorneys for Southwestern Ohio Seniors'
Services, Inc. n/k/a Maple Knoll
Communities, Inc., an Ohio non-profit
corporation*